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Paper No. 15

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JUL 09 2004

OFFICE OF PETITIONS

In re Application of :
Robert Barry Wood :
Application No. 09/546,312 :
Filed: April 10, 2000 :
Attorney Docket No. 99-089-TAP :
:DECISION ON PETITIONS
:UNDER 37 CFR 1.137(b) AND
:37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2004, to accept an unintentionally delayed payment of the issue fee. This is also a decision on the petition under 37 CFR 1.313(c)(2), filed May 6, 2004, to withdraw the instant application from issue after payment of the issue fee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before December 22, 2003, as required by the Notice of Allowance and Fee(s) Due, mailed September 22, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee payment; (2) the petition fee; and (3) an acceptable statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Petitioner, in the petition filed on May 6, 2004, requests that the instant application be withdrawn from issue after payment of the issue fee for consideration of a submission (Information Disclosure Statement) in a Request for Continued Examination (RCE).

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The application file is being forwarded to Technology Center AU 2186 for processing the RCE received May 10, 2004 and for consideration of the Information Disclosure Statement received on June 14, 2004.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).